

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL STEPHEN POROVICH,

Plaintiff,

v.

No. 1:17-cv-1214-KRS

NANCY A. BERRYHILL,  
Acting Commissioner of Social Security,

Defendant.

**ORDER AWARDING ATTORNEY FEES PURSUANT TO  
THE EQUAL ACCESS TO JUSTICE ACT**

**THIS MATTER** comes before the Court on the Stipulation Regarding Award of Attorney Fees under the Equal Access to Justice Act, (Doc. 24), filed October 2, 2018, in which the parties stipulate to awarding Plaintiff EAJA fees in the amount of \$3,643.35.

**IT IS, THEREFORE, ORDERED** that Plaintiff be awarded \$3,643.35 in attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). *See Astrue v. Ratliff*, 560 U.S. 586, 591–93 (2010) (EAJA fees are paid to the prevailing party, not the attorney). Payment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to EAJA fees in connection with this action. The parties further agree that the EAJA award is without prejudice to Plaintiff's attorney's right to seek attorney fees pursuant to 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. *See* 28 U.S.C. § 2412(c)(1) (2006).

**IT IS FURTHER ORDERED** that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b), Section 206(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575,

580 (10th Cir. 1986).

A handwritten signature in black ink that reads "Kevin Sweazea". The signature is written in a cursive style with a large initial "K" and a stylized "S".

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KEVIN R. SWEAZEA  
UNITED STATES MAGISTRATE JUDGE  
Presiding by Consent